

ROBERT CURRY, JR.,)
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 Plaintiff,)
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 v.) **Case No. CIV-09-1222-R**
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 MICHAEL J. ASTRUE,)
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 Commissioner of the Social)
 Security Administration,)
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 Defendant.)

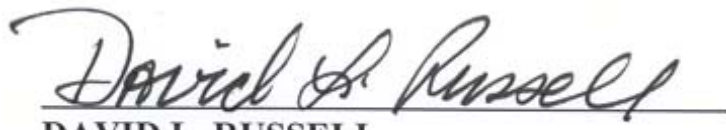
Before the Court are the Report and Recommendation of United States Magistrate Judge Shon T. Erwin entered December 20, 2010 [Doc. No. 20] and Plaintiff's Objections to the Report and Recommendation filed January 10, 2011. [Doc. No. 21]. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Court reviews the Report and Recommendation *de novo* in light of Plaintiff's Objections.

In his decision, the administrative law judge noted that he had considered all of the evidence. He did not specifically refer to the written statement of Plaintiff's spouse or indicate that he had considered the "function report" she completed on July 3, 2008. Although the administrative law judge in this case did not specifically indicate that he considered the function report, the decision indicates that the entire record was considered.

Furthermore, having reviewed the function report and the administrative law judge's decision, it is apparent that much of what Plaintiff complains the administrative law judge disregarded from his wife's report was actually incorporated into the administrative law judge's decision. The Court notes that Plaintiff's then-wife reported that Plaintiff could perform activities of daily living, such as feeding himself, preparing simple meals, completing household chores, driving, taking public transportation, handling his financing and shopping in stores. Tr. 12, 567. Jacqueline Curry reported that her husband had difficulty getting along with others, a finding adopted by the administrative law judge at p. 12. The administrative law judge concluded that Plaintiff has moderate difficulties with concentration, persistence or pace, and noted that Plaintiff is easily confused and stressed. Tr. 12. As a result, the administrative law judge concluded that Plaintiff has mental limitations that diminish his residual functional capacity for sedentary work, specifically he is limited to simple and known more complex work in a familiar setting with daily supervision, and he is to avoid public contact and environments with high levels of stimulation. Tr. 13. In short, it is not at all apparent that the administrative law judge did not consider the report other than the fact that he failed to find Plaintiff disabled and unable to work. The undersigned concurs with Judge Erwin that an administrative law judge is not required to discuss every piece of evidence, but only uncontroverted evidence upon which he does not rely. *See Clifton v. Chater*, 79 F.3d 1007, 1009-10 (10th Cir. 1996). The conclusory statements by Mrs. Curry in the evaluation she completed were either consistent with the administrative law judge's conclusions or controverted by the evidence.

Contrary to Plaintiff's assertions, the Court finds that this case should be decided under the authority of *Flaherty v. Astrue*, 515 F.3d 1067 (10th Cir. 2007). That is, "[the] general practice, which we see no reason to depart from here, is to take a lower tribunal at its word when it declares that it has considered a matter." *Id.* at 1071 (quoting *Hackett v. Barnhart*, 395 F.3d 1168, 1173 (10th Cir.2005)). As such, the Court finds no basis for reversal of this matter, and the Report and Recommendation is hereby adopted in its entirety, and the decision of the Commissioner is hereby **affirmed**.

IT IS SO ORDERED this 14th day of January 2011.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE